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Oliver Schnell

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EXAMINER

GLASS, RUSSELL S

ART UNIT

PAPER NUMBER

3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/034,196

Applicant(s)

SCHNELL, OLIVER

Examiner

Russell S. Glass

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1. Claims 12, 13, 28, 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

As per claims 12, 13, 28, the claims contain the limitation "licensed" or "newly licensed". As agreed by applicant, licensing requirements are subject to change between two points in time. Therefore, the scope of the claims are considered to be indefinite because licensed therapeutics and preparations can cover one class of substances at a first point in time when infringement is evaluated, and another broader class of substances at a second point in time. Additionally, it is unclear how long a substance is considered to be "newly licensed" and within the scope of the claim. The above 112 rejections are maintained because the scope of the claims is still considered to be indefinite.

As per claim 43, the claim limitation "about 48 hours" is also considered to be indefinite.

2. The rejections of claims 4, 17, 19, 27, and 35 are withdrawn based on Applicant's recent amendment filed 11/14/2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-22, 24-35, 38-40, 43, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr et al., (U.S. 5,954,641) in view of Korpi et al., (U.S. 6,198,696 B1), and further in view of Schwibinger, (British App. No. 2,304,426 A).**

4. As per claim 1, The collective system of Kher, Korpi, and Schwibinger discloses a method executable on a computer system for producing an adapted travel treatment plan for administering a medicine in the event of a long-haul journey, having the steps:

recording of a regular treatment plan for administering the medicine, (Kehr, col. 2, lines 6-39; col. 3, line 7-col. 4, line 20), recording of the point of departure and destination as well as the time of travel of the long-haul journey, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

determining the time zone difference between the point of departure and destination, (Korpi, Abstract, col. 2, line 25-col. 3, line 44), and

producing an adapted travel plan based on the regular plan depending on the time zone difference and the time of travel, (Korpi, Abstract, col. 2, line 25-col. 3, line 44).

Korpi fails to include treatment in the adapted travel plan, however including a treatment plan into a travel itinerary is well known in the art as evidenced by Schwibinger.

It would be obvious to one of ordinary skill in the art at the time of the invention to combine the treatment plan in Kehr with the adapted travel plan of Korpi, and then add Schwibinger. The motivation would have been to timely administer a treatment plan for jet-lag, (Schwibinger, Abstract; p. 2; Claim 5)(disclosing a travel treatment regimen of medication such as chronobiotics, benzodiazepines or caffeine.)

5. As per claim 2, Korpi discloses a set of travel plans being drawn up depending on a period between a last period according to the regular plan, taking the local time at the point of departure of the long-haul journey as a basis, and the next period according to the regular plan, taking the local time at the destination as a basis, (Korpi, Abstract, col. 2, line 25-col. 3, line 44) (the reference time is considered to be equivalent to a non-application period since it performs an identical function in substantially the same way and produces substantially the same results, i.e. displaying the total unadjusted elapsed time since departure).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

6. As per claim 3, Korpi discloses a method wherein the set of travel plans being stored in a storage device, time being determined on the basis of the recorded point of departure and destination and the time of travel or time of time zone changeover and the travel treatment plan to be applied being selected from the set of travel treatment plans on the basis of the recorded point of departure and destination, (Korpi, Abstract, col. 2, line 25-col. 3, line 44) (the reference time is considered to be equivalent to a non-application period since it performs an identical function in substantially the same way and produces substantially the same results, i.e. displaying the total unadjusted elapsed time since departure).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

7. As per claim 4, Kehr discloses various travel treatment plans being produced for at least one of various types of insulin and blood-sugar-lowering medicines, (Kehr, col. 3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

8. As per claim 5, Schwibinger discloses a travel treatment plan containing additional notes on recommended times for food intake, in particular of carbohydrates, (Schwibinger, Abstract; p. 2; Claim 5).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

9. As per claim 6, Schwibinger discloses a travel treatment plan also comprising recording of an actual intake of carbohydrates due to supplying of food, (Schwibinger, Abstract; p. 2; Claim 5).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

10. As per claim 7, Schwibinger discloses a travel treatment plan wherein the carbohydrate intake is being recorded by entry by the user, (Schwibinger, Abstract; p. 2; Claim 5).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

11. As per claim 8, Kehr discloses a method also comprising recording of the blood sugar concentration of the user, (Kehr, col.3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

12. As per claim 9, Kehr discloses a method, also comprising continuous recording of the blood sugar concentration by glucose sensors or non-invasive techniques, (Kehr, col. 3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

13. As per claim 10, Kehr discloses a method, also comprising continuous recording of the sugar concentration in other body fluids, (Kehr, col. 3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

14. As per claim 11, Kehr discloses a method, wherein the various insulin types being classified according to their action profile, (Kehr, col. 3, lines 45-54) (disclosing classification of medication dosages by sorting and labeling).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

15. As per claim 12, Kehr discloses a method, wherein at least one of all insulin and blood-sugar-lowering therapeutics licensed in at least one of a starting country and a destination country of a journey are included in the set of travel treatment plans, (Kehr, col. 3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

16. As per claim 13, Kehr discloses a method, wherein the set of travel treatment plans being updated in the case of at least one of newly licensed insulin preparations and newly licensed blood-sugar-lowering therapeutics, (Kehr, col. 4, lines 1-5)(disclosing periodical updates and changes).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

17. As per claim 14, Kehr discloses a method, wherein the set of travel treatment plans being updated in line with new medical findings, (Kehr, col. 4, lines 1-5)(disclosing periodical updates and changes).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

18. As per claim 15, Schwibinger discloses a method, wherein any local time

arrangements such as summertime adjustments in individual time zones being taken into account when producing the travel treatment plan, (Schwibinger, Abstract; p. 5).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

19. As per claim 16, Korpi discloses a method wherein the point of departure and destination of the long-haul journey being ascertained via a satellite communications system (GPS), (Korpi, col. 3, lines 28-43).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

20. As per claim 17, Korpi discloses a method, wherein the travel treatment plan produced being retrievable from a central computer via at least one of the Internet and wireless communication media, (Korpi, col. 1, line 26).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

21. As per claim 18, Korpi discloses a method, wherein the travel treatment plan covering a set transition period following the time at which the clock time is changed over, (Korpi, Abstract, col. 2, line 3-col. 3, line 44).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

22. As per claim 19, Korpi discloses a method, wherein the transition period being up to 14 days, (Korpi, Abstract, col. 2, line 3-col. 3, line 44).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

23. As per claim 20, Korpi discloses a related set of travel treatment plans being stored for a preset regular treatment plan as a worksheet of a spreadsheet program, (Korpi, col. 1, lines 13-52)(disclosing laptops and PDA's with personal information manager programs with electronic calendaring functions that are considered to be a form of spreadsheet program).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

24. As per claim 21, Korpi discloses a method, wherein one line containing the time sequence of the regular treatment plan and following lines containing the related travel treatment plan for various time zone differences, (Korpi, Abstract, col. 2, line 3-col. 3, line 44).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

25. As per claim 22, Kehr discloses a method, wherein a travel treatment plan being

produced for continuous blood-sugar-lowering therapy by means of an insulin dosing device, (Kehr, col. 3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

26. As per claim 24, The collective system of Kher, Korpi, and Schwibinger discloses a device for producing an adapted travel treatment plan for administering a medicine in the event of a long-haul journey, comprising:

a device for recording a regular treatment plan for administering the medicine, (Kehr, col. 2, lines 6-39; col. 3, line 7-col. 4, line 20),

a device for producing a set of travel plans based on the regular plan for various time zone differences and times of time zone changeover, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

a storage device for storing the set of adapted travel plans, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

a device for recording the point of departure and destination of the long-haul journey, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

a device for determining the time zone difference, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

a selection device for selecting one of the stored travel plans depending on the time zone difference and the time of time zone changeover, (Korpi, Abstract, col. 2, line 25-col. 3, line 44) and

an output device for outputting the selected plan, (Korpi, Abstract, col. 2, line 25-col. 3, line 44).

Korpi fails to include treatment in the adapted travel plan, however including a treatment plan into a travel itinerary is well known in the art as evidenced by Schwibinger.

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

27. As per claim 25, Korpi discloses a device for producing a set of travel plans determining a non-application period from the last application according to the regular plan according to the starting time zone to the next application according to the plan according to the destination time zone as an ordering parameter for the set of travel treatment plans, (Korpi, Abstract, col. 2, line 25-col. 3, line 44) (the reference time is considered to be equivalent to a non-application period since it performs an identical function in substantially the same way and produces substantially the same results, i.e. displaying the total unadjusted elapsed time since departure).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

28. As per claim 26, Kehr discloses the travel treatment plan produced being provided for the treatment of diabetes, (Kehr, col.3, lines 21,22; col. 9, line 64). (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

29. As per claim 27, Kehr discloses a treatment plan comprising at least one of insulin doses, blood-sugar-lowering therapeutics and instructions for the intake of meals, (Kehr, col.3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

30. As per claim 28, Kehr discloses a storage device containing sets of travel treatment plans for at least one of all licensed insulin types and blood-sugar-lowering therapeutics licensed in at least one of the country of departure and the country of destination, (Kehr, col.3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

31. As per claim 29, Kehr discloses a device producing an adapted travel treatment plan for a continuous blood-sugar-lowering therapy by means of an insulin dosing device, (Kehr, col.3, lines 21,22; col. 9, line 64) (disclosing treatment regimens including physiologic information for glucose levels).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

32. As per claim 30, Schwibinger discloses a device for calculating the time zone difference taking local time adjustments such as summertime adjustments into account, (Schwibinger, Abstract; p. 5).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

33. As per claim 31, Korpi discloses a device, also having an input device for entering the point of departure and destination of the long-haul journey, (Korpi, Abstract, col. 2, line 25-col. 3, line 44).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

34. As per claim 32, Korpi discloses a device, also having a device for determining position via a satellite communications system (GPS), (Korpi, col. 3, lines 28-43).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

35. As per claim 33, Kehr discloses a device, also having an acoustic or optical warning device to give a reminder of a required application of a medicine, (Kehr, col. 8, lines 7-19).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

36. As per claim 34, Korpi discloses a device, also having a display device to display the travel plan, (Korpi, Abstract, col. 2, line 25-col. 3, line 44).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

37. As per claim 35, Korpi discloses a device, the device being integrated into a mobile terminal device, (Korpi, Abstract, col. 1, line 13-col. 3, line 44).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

38. As per claim 38, The collective system of Kehr, Korpi, and Schwibinger discloses a computer program product with program code for the production, on a computer, of an

adapted travel treatment plan for administering a medicine in the event of a long-haul journey, having the steps:

recording of a regular treatment plan for administering the medicine, (Kehr, col. 2, lines 6-39; col. 3, line 7-col. 4, line 20),

recording of the point of departure and destination as well as the time of travel of the long-haul journey, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

determining the time zone difference between the point of departure and destination, (Korpi, Abstract, col. 2, line 25-col. 3, line 44), and

producing an adapted travel plan based on the regular plan depending on the time zone difference and the time of travel, (Korpi, Abstract, col. 2, line 25-col. 3, line 44).

Korpi fails to include treatment in the adapted travel plan, however including a treatment plan into a travel itinerary is well known in the art as evidenced by Schwibinger.

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

39. As per claim 39, The collective system of Kehr, Korpi, and Schwibinger discloses a storage medium with stored computer program for producing an adapted travel treatment plan for administering a medicine in the event of a long-haul journey by means of a computer due to the following steps:

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recording of a regular treatment plan for administering the medicine, (Kehr, col. 2, lines 6-39; col. 3, line 7-col. 4, line 20),

recording of the point of departure and destination as well as the time of travel of the long-haul journey, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

determining the time zone difference between the point of departure and destination, (Korpi, Abstract, col. 2, line 25-col. 3, line 44), and

producing an adapted travel plan based on the regular plan depending on the time zone difference and the time of travel, (Korpi, Abstract, col. 2, line 25-col. 3, line 44).

Korpi fails to include treatment in the adapted travel plan, however including a treatment plan into a travel itinerary is well known in the art as evidenced by Schwibinger.

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

40. As per claim 40, The collective system of Kehr, Korpi, and Schwibinger discloses a method for administering a medicine calling for application according to a regular time-related treatment plan, on a long-haul journey, having the steps:

recording of the time-relelated treatment plan of the medicine, (Kehr, col. 2, lines 6-39; col. 3, line 7-col. 4, line 20),

recording of the point of departure and destination as well as the time of travel of the long-haul journey, (Korpi, Abstract, col. 2, line 25-col. 3, line 44),

determining the time zone difference between the point of departure and destination, (Korpi, Abstract, col. 2, line 25-col. 3, line 44), and

producing an adapted travel plan based on the regular plan depending on the time zone difference and the time of travel, (Korpi, Abstract, col. 2, line 25-col. 3, line 44), and

administering the medicine according to the treatment plan, (Kehr, Fig. 4; col. 2, lines 6-39; col. 3, line 7-col. 4, line 20).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

41. As per claim 43, Korpi discloses a method wherein the transition period is about 48 hours, (Korpi, Abstract, col. 2, line 3-col. 3, line 44)(disclosing an example of ten-hour trip within 1 day and also multi-day calendar/itinerary functions).

42. As per claim 44, Korpi discloses device wherein the mobile terminal device is at least one of a laptop computer, an electronic organizer (Personal Digital Assistant, PDA) or a mobile telephone, (Korpi, col. 3, lines 28-30).

43. **Claims 23, 36, 37, 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kehr et al., (U.S. 5,954,641) in view of Korpi et al., (U.S. 6,198,696 B1), and further in view of Schwibinger, (British Pub. No. 2,304,426 A) and further in view of Kehr et al., (U.S. Pub. No. 2003/0036683) ("Kehr II").**

44. As per claim 23, the collective system of Kehr, Korpi, and Schwibinger fail to disclose a travel treatment plan being produced for a contraceptive. However, such a method would be obvious to one of ordinary skill in the art in view of Kehr II, (Kehr II, ¶ 120) (disclosing treatment plans that monitor hormone levels, gender, and reproductive or endocrine systems).

It would be obvious to one of ordinary skill in the art to add Kehr II to the collective system disclosed by Kehr, Korpi, and Schwibinger. The motivation would be to link databases defining a patients treatment protocol with remote devices that prompt the outpatient to carry out a medical treatment plan while at a remote location, (Kehr II, Abstract).

45. As per claim 36, the collective system of Kehr, Korpi, and Schwibinger fail to disclose a device being integrated into an apparatus for measuring the blood sugar values of a user. However, such a method would be obvious to one of ordinary skill in the art in view of Kehr II, (Kehr II, Fig. 1; ¶¶ 136-168).

The motivation to add Kehr II to the collective system of Kehr, Korpi, and Schwibinger is as provided in the rejection of claim 23 and incorporated herein by reference.

46. As per claim 37, the collective system of Kehr, Korpi, and Schwibinger fail to disclose the device being integrated into an apparatus for the continuous measurement

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of the sugar concentration of a user, However, such a method would be obvious to one of ordinary skill in the art in view of Kehr II, (Kehr II, Fig. 1; ¶¶ 136-168).

The motivation to combine Kehr, Korpi and Schwibinger is as provided in the rejection of claim 1 and incorporated herein by reference.

The motivation to add Kehr II to the collective system of Kehr, Korpi, and Schwibinger is as provided in the rejection of claim 23 and incorporated herein by reference.

47. As per claim 41, the collective system of Kehr, Korpi, and Schwibinger fail to disclose a method for administering insulin preparations and/or blood-sugar-lowering media. However, such a method would be obvious to one of ordinary skill in the art in view of Kehr II, (Kehr II, Fig. 1; ¶¶ 136-168).

The motivation to add Kehr II to the collective system of Kehr, Korpi, and Schwibinger is as provided in the rejection of claim 23 and incorporated herein by reference.

48. As per claim 42, the collective system of Kehr, Korpi, and Schwibinger fail to disclose a method for administering contraceptives. However, such a method would be obvious to one of ordinary skill in the art in view of Kehr II, (Kehr II, ¶ 120) (disclosing treatment plans that monitor hormone levels, gender, and reproductive or endocrine systems).

The motivation to add Kehr II to the collective system of Kehr, Korpi, and Schwibinger is as provided in the rejection of claim 23 and incorporated herein by reference.

Response to Arguments

Applicant's arguments filed 11/14/2006 have been fully considered but they are not persuasive for the following reasons:

1. As per applicant's argument that claims 12, 13, and 28 are not indefinite under 35 U.S.C. 112, 2nd ¶, please refer to the explanation provided above in the Response to Amendments section.
2. As per applicant's arguments that Kehr fails to disclose "a trip, journey or any travel of any sort", and that Korpi fails to disclose "any applications relating to the administration of medicine", it is submitted that in each above case, it is the other reference that is provided for these limitations. The applicant appears to be arguing the references individually. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

3. As per applicant's argument that there is no suggestion to combine Kehr and Korpi, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, such a motivation was provided by reference to Schwibinger. Schwibinger discloses combining a travel planner with a portable medical monitoring device for the purpose of reducing jet lag, (Schwibinger, Abstract; p. 2; Claim 5).

4. As per applicant's argument that Schwibinger fails to disclose a regular treatment plan, it is submitted that Kehr, not Schwibinger, is referenced in the action as disclosing this feature, (Kehr, col. 2, lines 6-39; col. 3, line 7-col. 4, line 20). Furthermore, Applicant argues that Schwibinger and the current Application are distinguishable because Schwibinger is used to combat the effects of the travel itself (Jet-lag) instead of producing a travel treatment plan based on a regular treatment plan. Such logic fails to distinguish the current application over the referenced prior art because a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

5. As per applicant's that the clock mechanisms of Korpi and Schwibinger are incompatible, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As previously stated, it would be obvious to one of ordinary skill in the art to combine the travel clock mechanism of Korpi with the medical treatment suggested by Schwibinger and further taught by Kehr, in order to combat jet-lag.

6. As per applicant's argument that Kehr II fails to disclose a travel treatment plan produced for a contraceptive, measuring blood sugar, or administering insulin or a contraceptive, it is submitted that Kehr II would suggest these features to one of ordinary skill in the art. Kehr discloses treatment plans that monitor hormone levels, gender, and reproductive or endocrine systems, (Kehr II, ¶ 120). It is well-known to one of ordinary skill in the art that monitoring and treating endocrine systems includes measuring and administering insulin to control blood sugar. Also, it is equally well-known that monitoring and treating hormone levels and reproductive systems includes measuring and administering contraceptives.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

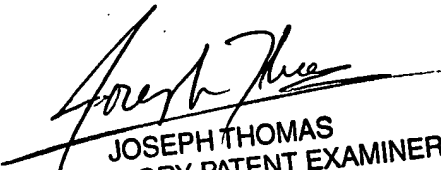
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG
1/28/2007


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER